

## Message Text

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PAGE 01 STATE 206435  
ORIGIN EB-08

INFO OCT-01 EUR-12 ISO-00 L-03 JUSE-00 SS-15 NSC-05  
SP-02 TRSE-00 CIAE-00 INR-07 NSAE-00 COME-00  
FTC-01 SEC-01 /055 R

DRAFTED BY EB/IFD/BP:HJWINTER:VJW  
APPROVED BY EB/IFD/BP:HJWINTER  
L/EB - SBENSON  
EUR/CAN - GMONROE  
JUSTICE - DCOLTON  
-----106738 300251Z /64  
R 292225Z AUG 77  
FM SECSTATE WASHDC  
TO AMEMBASSY OTTAWA

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E.O. 11652: GDS

TAGS: ETRD

SUBJECT: U.S.-CANADIAN MEETING ON PROBLEMS OF EXTRA-  
TERRITORIALITY

1. THE MEETING OF A U.S. DELEGATION HEADED BY JOHN SHENE-  
FIELD, ACTING ASSISTANT ATTORNEY GENERAL, ANTITRUST DIVI-  
SION, AND A CANADIAN DELEGATION HEADED BY ROBERT BERTRAND,  
DIRECTOR, COMBINES INVESTIGATION DIRECTORATE, MINISTRY OF  
CONSUMER AND CORPORATE AFFAIRS, ON PROBLEMS OF EXTRA-  
TERRITORIALITY BETWEEN THE TWO COUNTRIES CONVENED AT  
9:30 AM AND ADJOURNED AT 3:30 PM IN THE DEPARTMENT OF  
JUSTICE ON AUGUST 26. (THE MEETING WAS CHAIRED BY MR.  
SHENEFIELD.) THE MEETING WAS A FOLLOW-UP TO THE JUNE 17  
MEETING IN OTTAWA BETWEEN ATTORNEY GENERAL BELL AND  
MINISTER OF JUSTICE BASFORD AT WHICH IT WAS AGREED THAT  
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BOTH GOVERNMENTS WOULD UNDERTAKE A SERIOUS AND LONG-TERM  
COMMITMENT TO LESSEN EXTRA-TERRITORIAL CONFLICTS THROUGH  
IMPROVED CONSULTATION AND, IF FEASIBLE, IMPROVED NOTIFI-  
CATION AND COOPERATION.

2. THE MEETING WAS FOCUSED PRIMARILY ON THE "PRINCIPLES  
FOR GUIDANCE TO OFFICIALS FOR FOLLOW-UP MEETINGS ON THE

EXTRA-TERRITORIAL APPLICATION OF ANTITRUST LAWS" (HERE-AFTER "PRINCIPLES"), A PAPER WHICH WAS JOINTLY DRAFTED IN

OTTAWA ON JUNE 17 AND APPROVED BY MESSRS. BELL AND BASFORD. THE DISCUSSION WAS BASED LARGELY ON A PAPER PREPARED BY THE CANADIAN GOVERNMENT RAISING A NUMBER OF POINTS CONCERNING THE "PRINCIPLES", WHICH THE CANADIANS BELIEVED NEEDED TO BE CLARIFIED AND ELABORATED UPON IN ORDER TO ATTEMPT TO DEVELOP A MORE PRECISE MEANING. FOR EXAMPLE, IN PARAGRAPH 2 OF THE "PRINCIPLES", THE PHRASE "CONDUCT OF ITS NATIONALS" IS USED. THE CANADIAN PAPER NOTED THAT "THE MEANING TO BE ATTACHED TO THE WORD 'NATIONALS' AND THE PURPOSE OF THE PHRASE 'CONDUCT OF ITS NATIONALS' ARE UNCLEAR." AT THE MEETING, THE CANADIANS INDICATED THEIR CONCERN THAT THE U.S. CONSIDERS CANADIAN SUBSIDIARIES OF U.S. COMPANIES TO BE U.S. NATIONALS, WHICH COULD SUBJECT MANY CANADIAN COMPANIES TO U.S. JURISDICTION SOLELY ON THE BASIS OF OWNERSHIP OR CONTROL. IT WAS AGREED THAT JUSTICE/STATE WOULD STUDY THIS QUESTION, AMONG OTHERS, AND PREPARE A PAPER FOR THE NEXT MEETING.

3. THERE WERE LENGTHY BUT SIMILARLY INCONCLUSIVE DISCUSSIONS OF ALL OTHER POINTS IN THE CANADIAN PAPER. FOR EXAMPLE, THERE WAS A DETAILED DISCUSSION OF THE MEANING OF THE PHRASES "SIGNIFICANT NATIONAL INTEREST" AND "PARALIMITED OFFICIAL USE

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MOUNT NATIONAL INTEREST." THE DISCUSSIONS WERE ON THE WHOLE FRIENDLY AND POSITIVE.

4. AT THE CONCLUSION OF THE MEETING, IT WAS AGREED THAT JUSTICE/STATE WOULD PREPARE A WORKING PAPER ON (A) THE VARIOUS POINTS DISCUSSED IN CONNECTION WITH THE "PRINCIPLES" AND WHAT THE ISSUES ARE, NOTING POSITIONS OF THE TWO GOVERNMENTS; (B) THE POSSIBILITY OF A MECHANISM FOR THE EXCHANGE OF MORE DETAILED INFORMATION BETWEEN THE TWO GOVERNMENTS ON PROPOSED ANTITRUST ACTIONS; AND (C) WAYS AND MEANS OF IMPROVING THE EXISTING NOTIFICATION AND CONSULTATIVE PROCEDURE, WITH A VIEW TO EARLY NOTIFICATION AND CONSULTATION.

5. THE TARGET DATE FOR THE JUSTICE PAPER WOULD BE ABOUT NOVEMBER 15, FOLLOWING WHICH THERE WOULD BE A MEETING OF A SMALL WORKING PARTY OF U.S. AND CANADIAN OFFICIALS TO DISCUSS THE PAPER. VANCE

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## Message Attributes

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